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Art Unit: 2683

Docket No.: PALM-3504

### **REMARKS**

Reconsideration and Allowance in view of the forgoing amendments and the following remarks are respectfully requested.

By this amendment, claims 1, 3, 4, 6-13, 15-18 and 20-26 remain pending and claims 1, 3, 4, 9, 13, 17 and 20-26 are amended.

### **Oath/Declaration**

On page 2 of the Office Action, the Examiner indicated that inventor, Benoit Vialle, signed the Declaration, but did not date the Declaration. Applicant is in the process of correcting this problem. A new Declaration will be forthcoming.

### **Rejection of Claims 1, 3, 4, 6, 7, 10, 13, 15-18, 20, 21 and 24**

On page 2 of the outstanding Office Action, the Examiner rejected claims 1, 3, 4, 6, 7, 10, 13, 15-18, 20, 21 and 24 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 6,233,464 to Chmaytelli, in view of U.S. Patent No. 6,233,464 to Watanabe et al. ("Watanabe"), in view of U.S. Patent No. 6,091,947 to Sumner and further in view of U.S. Patent No. 6,114,625 to Hughes et al. ("Hughes"). Applicant traverses the rejection with respect to claim 1 and submits that the amendments to claims 3, 13 and 17 traverses the rejection. Applicant further submits that the amendment to claim 1 was made to broaden the claim and improve presentation. The amendments to claims 4, 20, 21 and 24 were made to improve presentation and do not narrow the scope of the claims.

Amended independent claim 1 is directed to a method of managing phone calls on a computing device having a wireless phone device. The method includes, among other things, checking an attachment of an earplug device, wherein the earplug device is configured to be

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connected to the wireless handheld phone device, and diverting an incoming call to a voicemail application if the earplug device is not attached.

On page 2 of the Office Action, the Examiner asserted that Chmaytelli discloses checking an attachment of a stylus device to determine whether a cellular phone is enabled or disabled. On page 3 of the Office Action, the Examiner admitted, and Applicant agrees, that Chmaytelli does not disclose or suggest checking an attachment of an earplug device, wherein the earplug device is configured to be connected to the wireless handheld phone. To address this deficiency of Chmaytelli, Applicant relied on Watanabe, at col. 1, lines 59-60 to disclose this feature.

Watanabe discloses a dual-mode speaker telephone, which is connected to a telephone line (see Watanabe, Abstract and 110 of Fig.1). Watanabe, at col. 1, lines 54-60 discloses:

The speaker telephone of the present invention includes a controller which determines whether an earphone is connected or disconnected. If the earphone is disconnected, the controller places the speaker telephone in the half-duplex mode of operation to prevent undesired feedback of speaker output to the microphone input. If the earphone is connected, the controller causes the speaker telephone to transition from the half-duplex to the full-duplex mode of operation.

Thus, Watanabe discloses checking whether the earplug is connected to determine whether the phone is to operate in half-duplex mode to avoid feedback, or in full-duplex mode.

On page 3 of the Office Action, the Examiner asserted that it would be obvious to combine Chmaytelli with Watanabe to check an attachment status of an earplug device, wherein the earplug device is configured to be connected to the wireless handheld phone device, to prevent undesired feedback of speaker output to the microphone.

Thus, the combination of Chmaytelli with Watanabe would provide a combined dual-mode cellular phone/computing device that includes a speaker and an earphone. The device would determine whether the earphone is attached and when the earphone is determined to be attached, the device would operate in full-duplex mode and when the earphone is not attached,

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the device would operate in half-duplex mode and would use the speaker to output sound based on signals received by the device.

Next, on page 3 of the Office Action, the Examiner admitted, and Applicant agrees, that Chmaytelli and Watanabe do not disclose or suggest that if the phone is not enabled, diverting the incoming call to a voicemail application. The Examiner relied on Sumner to disclose or suggest this feature.

Sumner, at col. 7, lines 57-62, with reference to Fig. 4, discloses:

Provided, in step 406, that both inbound and outbound performance characteristics are satisfactory, the call may be completed as a normal voice connection in process step 407. If the transmission and reception rates cannot accommodate a normal voice connection, then the call is routed to the voice mail deposit process step 408.

Thus, Sumner discloses that if the reception characteristics permit, a normal voice connection is made, otherwise the call is forwarded to voice mail.

On page 3 of the Office Action, the Examiner concluded that it would be obvious to combine Chmaytelli, Watanabe and Sumner to divert an incoming call to a voicemail application when the handset is not disposed to receive normal voice. However, Applicant submits that the combination of Chmaytelli, Watanabe and Sumner would provide a combined dual-mode cellular phone/computing device that includes a speaker and an earphone. As mentioned above, the device would determine whether the earphone is attached and when the earphone is determined to be attached, the device would operate in full-duplex mode and when the earphone is not attached, the device would operate in half-duplex mode and would use the speaker to output sound based on signals received by the device. An incoming call would be directed to a voicemail application when the phone is not able to receive a call due to transmission and/or reception problems. When the earplug device is not connected and the transmission and reception are satisfactory, the incoming call would be received and the speaker would be used in half-duplex mode.

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Applicant submits that the Examiner used impermissible hindsight to reject claim 1. The present specification showed implementations in which a call would not be received when an earplug device is not electrically connected to a computing device. The Examiner, apparently, read this feature into the cited references. Thus, the Examiner apparently used impermissible hindsight and assumed that the combination of references disclose or suggest that when the earplug device is not electrically connected to the computing device, the computing device cannot receive calls. However, as explained above, the combination of references discloses or suggests that when the earplug device is not electrically connected, an incoming call would be permitted in half-duplex mode to a speaker.

Hughes discloses a fastener for detachably coupling a housing and does not satisfy the deficiencies of Chmaytelli, Watanabe and Sumner. Because the combination of Chmaytelli, Watanabe, Sumner and Hughes does not disclose or suggest, either separately, or in any combination, diverting an incoming call to a voicemail application if the earplug device is not attached, as required by claim 1, Applicant submits that claim 1 is patentable over the cited references. Therefore, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Amended independent claim 3 is directed to a method of managing a phone call to a wireless handheld phone device of a computing device, where the phone call is transmitted from a device in a mobile phone network. The method includes, among other things, receiving a phone call only if an earplug device is plugged in.

On page 4 of the Office Action, the Examiner admitted, and Applicant agrees, that Chmaytelli and Sumner do not disclose receiving the phone call if the earplug device is plugged in. The Examiner relied on Watanabe to disclose or suggest this feature. However, as discussed previously with respect to claim 1, Watanabe discloses checking whether an earplug device is plugged in. If the earplug device is plugged in, the combination device would receive a call in

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full-duplex mode, and if the earplug device is not plugged in, the combination device would receive the call in half-duplex mode. Thus, the combination of Chmaytelli, Watanabe and Sumner would provide a device capable of receiving a call with the earplug device plugged in and without the earplug device not plugged in. Hughes fails to address the deficiencies of Chmaytelli, Watanabe and Sumner.

Thus, the combination of Chmaytelli, Watanabe, Sumner and Hughes fails to disclose or suggest, either separately or in combination, receiving a phone call only if an earplug device is plugged in, as required by claim 3. Applicant, therefore, respectfully requests that the rejection of claim 3 be withdrawn.

Claims 4, 6, 7 and 10 depend from claim 3 and are patentable at least for the reasons discussed above with respect to claim 3. Therefore, Applicant respectfully requests that the rejection of claims 4, 6, 7 and 10 be withdrawn.

Further, claim 10 is patentable over Chmaytelli, Watanabe, Sumner and Hughes for other reasons. For example, although Sumner discloses sending a call to a voicemail application, the combination of Chmaytelli, Watanabe, Sumner and Hughes does not disclose or suggest receiving a silence signal, as required by claim 10 and as admitted by the Examiner on page 9 of the Office Action.

Amended claim 13 recites a feature similar to the previously discussed feature of claim 3 and is patentable over Chmaytelli, Watanabe, Sumner and Hughes for reasons similar to those provided with respect to claim 3. Therefore, Applicant respectfully requests that the rejection of claim 13 be withdrawn.

Claims 15 and 16 depend from claim 13 and are patentable over Chmaytelli, Watanabe, Sumner and Hughes for at least the reasons discussed with respect to claim 13. Therefore, Applicant respectfully requests that the rejection of claims 15 and 16 be withdrawn.

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Claim 17 recites features similar to those of claim 3 and is patentable for reasons similar to those provided with respect to claim 3. Therefore, Applicant respectfully requests that the rejection of claim 17 be withdrawn.

Claims 18, 20, 21 and 24 depend from claim 17 and are patentable over Chmaytelli, Watanabe, Sumner and Hughes for at least the reasons provided with respect to claim 17. Therefore, Applicant respectfully requests that the rejection of claims 18, 20, 21 and 24 be withdrawn.

Applicant further submits that claim 24 is patentable over the cited references for reasons of its own. For example, the Examiner admitted on page 9 of the Office Action, that the combination of Chmaytelli, Watanabe, Sumner and Hughes does not disclose or suggest initiating a silence routine, as required by claim 24.

#### **Rejection of Claims 8, 9, 22 and 23**

On page 8 of the Office Action, the Examiner rejected claims 8, 9, 22 and 23 under 35 U.S.C. 103(a) as allegedly being unpatentable over Chmaytelli, Sumner, Watanabe, Hughes and U.S. Patent No. 6,343,120 to Rhodes. Applicant submits that amended claims 3 and 17 obviate the rejection. The amendments to claims 9, 22 and 23 were for improving presentation and do not narrow the scope of the claims.

Claims 8 and 9 depend from claim 3 and are patentable over Chmaytelli, Sumner, Watanabe and Hughes for at least the reasons discussed with respect to claim 3. Rhodes fails to satisfy the deficiencies of Chmaytelli, Sumner, Watanabe and Hughes. Therefore, Applicant submits that claims 8 and 9 are patentable over Chmaytelli, Sumner, Watanabe, Hughes and Rhodes and respectfully requests that the rejection of claims 8 and 9 be withdrawn.

Claims 22 and 23 depend from claim 17 and are patentable over Chmaytelli, Sumner, Watanabe and Hughes for at least the reasons discussed with respect to claim 17. Rhodes fails to

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satisfy the deficiencies of Chmaytelli, Sumner, Watanabe and Hughes. Therefore, Applicant submits that claims 22 and 23 are patentable over Chmaytelli, Sumner, Watanabe, Hughes and Rhodes and respectfully requests that the rejection of claims 22 and 23 be withdrawn.

#### **Rejection of Claims 10 and 24**

On page 9 of the Office Action, the Examiner rejected claims 10 and 24 under 35 U.S.C. 1003(a) as allegedly being unpatentable over Chmaytelli, Sumner, Watanabe, Hughes and U.S. Patent No. 6,334,054 to Link, II et al. ("Link"). Applicant submits that amended claims 3 and 17 obviate the rejection. Claim 24 was amended only to improve presentation. Applicant submits that the amendment to claim 24 does not narrow the scope of claim 24.

Claims 10 and 24 depend from claims 3 and 17, respectively, and are patentable over Chmaytelli, Sumner, Watanabe and Hughes for at least the reasons provided with respect to claims 3 and 17. Link fails to satisfy the deficiencies of Chmaytelli, Sumner, Watanabe and Hughes. Therefore, Applicant submits that claims 10 and 24 are patentable over Chmaytelli, Sumner, Watanabe, Hughes and Link and respectfully requests that the rejection of claims 10 and 24 be withdrawn.

#### **Rejection of Claims 11 and 25**

On page 10 of the Office Action, the Examiner rejected claims 11 and 25 under 35 U.S.C. 103(a) as allegedly being unpatentable over Chmaytelli, Sumner, Watanabe, Hughes, Rhodes and U.S. Patent No. 6,026,152 to Cannon et al. ("Cannon"). Applicant submits that amended claims 3 and 17 obviate the rejection. The amendment to claim 25 is only for improving presentation and does not narrow the scope of claim 25.

Claims 11 and 25 depend from claims 3 and 17, respectively, and are patentable over Chmaytelli, Sumner, Watanabe and Hughes for at least the reasons provided with respect to

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claims 3 and 17. Rhodes and Cannon also fail to satisfy the deficiencies of Chmaytelli, Sumner, Watanabe, Hughes. Therefore, Applicant submits that claims 11 and 25 are patentable over Chmaytelli, Sumner, Watanabe, Hughes, Rhodes and Cannon and respectfully requests that the rejection of claims 11 and 25 be withdrawn.

#### **Rejection of Claims 12 and 26**

On page 11 of the Office Action, the Examiner rejected claims 12 and 26 under 35 U.S.C. 103(a) as allegedly being unpatentable over Chmaytelli, Sumner, Watanabe, Hughes and U.S. Patent No. 6,161,134 to Wang et al. ("Wang"). Claims 12 and 26 depend from claims 3 and 17, respectively, and are patentable over Chmaytelli, Sumner, Watanabe and Hughes for at least the reasons provided with respect to claims 3 and 17. Wang fails to satisfy the deficiencies of Chmaytelli, Sumner, Watanabe and Hughes. Therefore, Applicant submits that claims 12 and 26 are patentable over Chmaytelli, Sumner, Watanabe, Hughes and Wang and respectfully requests that the rejection of claims 12 and 26 be withdrawn.

#### **Rejection of Claim 16**

On page 16 of the Office Action, the Examiner rejected claim 16 under 35 U.S.C. 103(a) as allegedly being unpatentable over Chmaytelli, Sumner, Watanabe and U.S. Patent No. 6,240,302 to Harrison. Applicant submits that amended claim 13 obviates the rejection.

Claim 16 depends from claim 13, which is patentable over Chmaytelli, Sumner and Watanabe, as well as Hughes, for at least the reasons provided with respect to claim 13. Applicant submits that Harrison also fails to satisfy the deficiencies of Chmaytelli, Sumner and Watanabe. Therefore, Applicant submits that claim 16 is patentable over Chmaytelli, Sumner, Watanabe and Harrison and respectfully requests that the rejection of claim 16 be withdrawn.



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**CONCLUSION**

Having addressed all rejections, Applicant respectfully submits that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Date: May 6, 2005

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